

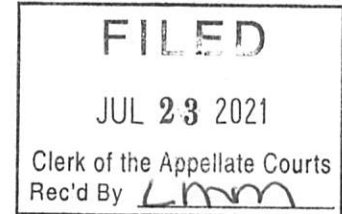


SHERRARD
ROE
VOIGT
HARBISON

Amy Rao Mohan

Direct Dial (615) 742-4571
amohan@srvhlaw.com

July 23, 2021



BY EMAIL & US MAIL

James M. Hivner, Clerk
RE: Tenn. Sup. Ct. R. 21, section 3.01
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407
appellatecourclerk@tncourts.gov

**Re: In support of Petition to Amend Rule 13; Docket Nos. ADM2021-00308,
ADM2021-00237**

Dear Mr. Hivner:

Many of my partners and I have had the opportunity to work *pro bono* on a number of criminal, habeas, and clemency matters in conjunction with other state and federal attorneys. Phil Cramer and I worked on a case a couple years ago with the Tennessee Office of the Post-Conviction Defender and saw firsthand the significant and crucial need for experts and investigative services in this meaningful work.

As illustrated in the petitions, the necessity of this expert funding to establish a defense or claims of constitutional violations is essential to these indigent defendants and the fairness and equity of our legal system hinges on the proper application of Rule 13. I understand from our colleagues in the criminal defense bar and specifically at the Post-Conviction Office that at times, the expenditure of expert expenses, approved and ordered by a court, is later overruled by administrative entities. This is a detrimental and sometimes even fatal blow to an indigent defendant's case.

In turn, my partners and I support the recent petitions filed by the Tennessee Office of the Post-Conviction Defender and other criminal defense organizations to amend Rule 13 to ensure that indigent defendants receive the crucial funding for expert and investigative services and that Rule 13 clarify that an indigent client can receive funding for expert and investigative services as soon as the criminal proceedings against him or her are initiated. We must ensure as fellow members of the bar that indigent clients have the tools necessary to defend themselves or in the case of capital petitioners, to challenge their convictions and sentence.

James M. Hivner, Clerk
July 23, 2021
Page 2

We appreciate your consideration of the petitions regarding the Rule 13 amendments and fully support its adoption.

Very truly yours,

A handwritten signature in cursive script that reads "Amy Rao Mohan".

Amy Rao Mohan

ARM/sjd

appellatecourtclerk - R. 13 Comment

From: Tim Irwin <Tim.Irwin@knoxcounty.org>
To: "appellatecourtclerk@tncourts.gov" <appellatecourtclerk@tncourts.gov>
Date: 7/23/2021 12:47 PM
Subject: R. 13 Comment

It is imperative we amend Rule 13 to cover experts and investigators in Juvenile Court delinquent proceedings, termination of parental right cases and particularly transfer hearings. In Re Gault requires the juveniles have the same constitutional protections that adults enjoy. Children charged with murder are facing up to fifty-one (51) years if transferred to adult court. Appointed council in these cases must be able to have competent psychiatric evaluations to determine if the accused child is committable to an institution for the insane or mentally retarded. It is often necessary for an expert to render an opinion on the availability of the treatment and care, remaining for the accused in the juvenile system. Finally, appointed counsel must be able to use an investigator for the probable cause phase of the hearing. They are unable to investigate themselves since they could, "likely become a witness."

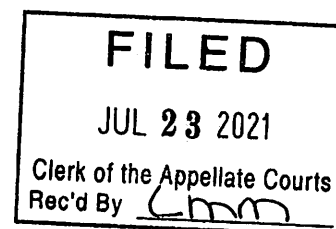
Ceasing to pay for these services has created a delay resulting in a large number of children (often detained) awaiting a transfer hearing in my county (Knox). I am strongly in support of the proposed changes to Rule 13 submitted by The Tennessee Association of Defense Lawyers.

Sincerely,

Judge Timothy E. Irwin

Timothy E. Irwin, Judge

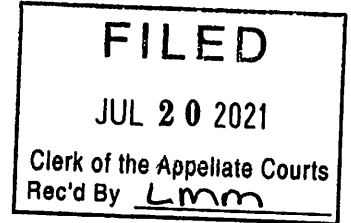
Knox County Juvenile Court
 3323 Division Street
 Knoxville, Tennessee 37919
Office: (865) 215-6475
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tim.irwin@knoxcounty.org



Adm 2021-00308

PAMELA AUBLE, PH.D., ABPP-CN
Clinical and Forensic Neuropsychology, Personality Assessment
2200 21st Avenue South, Suite 401, Nashville, TN 37212
(615) 340-4686 cell (615) 308-5823 fax (615) 750-5796

July 20, 2021



James Hivner, Clerk
Re: Tenn. Sup. Ct. R. 13, 5(a)(1) and 5(d)(1)
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

Re: Docket No. ADM2021-00308

To Whom it May Concern:

I am a forensic neuropsychologist who has been doing evaluations on criminal defendants in Tennessee for roughly 35 years.

I am writing in support of the proposed changes to Rule 13 in which the Rule is modified to omit the oversight of the director and the chief justice in orders considered and approved by a court in Tennessee.

The concern is to save money by cutting funding for expert services. The factors that might have been considered by the judge in authorizing that funding do not appear to be part of the decision. An arbitrary cap of \$3500 can be applied without justification from the director or chief justice.

This oversight appears to be entirely to reduce the amount authorized in orders, and is never used to increase the amount authorized in orders. I have had courts who cut my fees in an apparently capricious way, ignoring the justification for the work that is needed. I have been told that there is nothing that the director or the chief justice can do about that, a statement that makes no sense since they seem to have the final say on fees when they decide to reduce them.

Sincerely,

Pamela Auble, Ph.D., ABPP
Licensed Psychologist, Health Service Provider
Board Certified in Clinical Neuropsychology

Lisa Marsh - Letters in support of ADM2021-00308 and ADM2021-0237

From: "Pamela Auble" <pmauble@gmail.com>
To: <appellatecourtclerk@tncourts.gov>
Date: 7/20/2021 4:41 PM
Subject: Letters in support of ADM2021-00308 and ADM2021-0237
Attachments: Auble letter supporting ADM2021-00308.pdf; Auble letter supporting ADM2021-00237.pdf

Please see attached comments on the petitions to modify Rule 13.

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